



RESPONSIBILITIES GUIDE FOR SPONSORS/CONSULTANTS

(Federal-aid Construction Contracts)

Initial Actions:

Once the OFC receives the "Notice to Proceed" letter from NHDOT Bureau of Planning and Community Assistance, the OFC will contact the Town, hereafter referred to as the Sponsor, within 5 working days to obtain necessary information.

Sponsors/Consultants: Please be prepared to provide the following information to the OFC at the Pre-construction Meeting:

1. The name of the Primary point of contact for the Sponsor with his/her phone number, fax number, and email address.
2. The date the project was advertised, bid award date, scope of work, projected start date, and estimated completion date.
3. Name and contact information of the person providing day-to-day oversight of the project. If a Consultant Company will be utilized, we need the name of the Project Manager and the name of the Resident Engineer (the person who will be providing day-to-day oversight of the project). Unless you tell us differently, we will assume the RE will also be managing certified payrolls, payroll log sheets, etc.
4. Date, time, and location of the Pre-Construction Meeting. Please allow approximately 30 minutes of time for the Federal Compliance Officer to brief applicable parties.
5. List of additional work classifications that will be needed in order to complete work on the project. Submissions shall be on a SF 1444 and shall all be sent to the Sponsor/Consultant who will forward to the OFC for processing.

Important: Per contract, the Prime is responsible for ensuring additional work classifications, including those by subcontractor or lower-tier contractors, are submitted to the OFC "3-4 weeks before the classification is utilized." If no additional work classifications will be needed, the Sponsor shall make this known at the meeting.

Sponsor Responsibilities:

IMPORTANT: Sponsors who utilize Consultants for project compliance oversight remain fully responsible for the Federal Compliance requirements.

1. Ensure only those Subcontractors or Lower-Tier Subcontractors who have been approved by the NHDOT Office of Federal Compliance perform work on site.
2. Assist the NHDOT Federal Compliance Officer, as needed, to ensure Contractors approved to work on site are in compliance with applicable State and Federal laws, Form FHWA 1273, Required Contract Provisions and NHDOT Standard Specifications.
3. Monitor Office of Federal Compliance Field Audits to ensure the Prime Contractor responds appropriately within the time allotted and has taken all necessary steps to close Field Audits within the time allowed.
4. Ensure Prime Contractor submits SF 1444s for all additional work classifications needed to complete the work 3-4 weeks before the classification is utilized (per contract). Primes shall send submissions to the Sponsor/Consultant who will in-turn send to the OFC for processing.

5. OFC Form 13, Project Status Reports: Immediately inform the Office of Federal Compliance as to the current status of the project by faxing (or emailing) an OFC Form 13, Project Status Report, anytime the status of the job changes – starts, suspends for the winter, resumes, or is completed. When faxing, send to (603) 271-8048. The hired Consultant should complete this requirement if responsible for project oversight.

- a. OFC Form 13s submitted to the OFC within 10 working days are considered timely.
- b. Projects having two (2) weeks or more inactivity should be considered suspended and require an OFC Form 13 submission.

6. Change of Resident Engineers: The Sponsor (or the Consultant Firm) shall immediately notify the Office of Federal Compliance, in writing, anytime there is a change to the Resident Engineer for the project. This notification shall include the effective date of this change along with full contact information of the person who will be assuming project oversight responsibilities. Sponsors are responsible for ensuring the replacement Resident Engineer has attended Local Project Administration (LPA) Certification Training prior to assuming oversight of the project.

7. Prompt Pay: In accordance with NHDOT Standard Specification 109.09, contractors are required to pay subcontractors no later than 21 calendar days from the time they are paid for work that was performed by the subcontractor or lower-tier subcontractor. Payment is full (for work completed during the estimate period) is required. **Retainage is not allowed.** Sponsors or consultants who receive complaints, or otherwise become aware of non-timely or “partial” payments, should immediately contact the OFC at (603) 271-6612. Please refer to page 9 of this guide for specific responsibilities relative to Prompt Pay.

8. Commercial Useful Function (CUF) Reviews: The Sponsor (or hired Consultant) shall perform a Commercial Useful Function (CUF) Review for each DBE subcontractor performing work on each project. OFC Form 21 shall be used for this purpose. Completed CUF Reviews should be faxed to the NHDOT, Attn: DBE Coordinator, at 271-8048 as soon as they are accomplished. Sponsors (or hired Consultant) shall create a DBE folder at the respective project and retain copies of the CUF Reviews for OFC and FHWA inspection. Questions regarding CUF reviews or submissions should be referred to the NHDOT at (603) 271-6612.

9. Employee Interviews & Monthly Employee Interview Reports: The Sponsor (or hired Consultant) is responsible for conducting employee interviews to ensure proper classification and wages paid. The OFC Form 11 shall be used for this purpose. Copies of interview forms shall be maintained, in a separate file, on site with Certified Payroll Report documents and be made available for review by the OFC when field audits are performed. Employees do not need to sign these forms unless their written authorization to release information obtained during the interview is needed in order to resolve a dispute. Interviews shall be performed as soon as payroll information is available. If any contractor's work will be completed prior to when payrolls are due, interviews will be performed immediately. Unless a very small project, the OFC/FHWA's expectation is that "some" interviews will be performed monthly. Monthly Employee Interview Reports should be forwarded to the OFC Compliance Officer for the project, via email, the first week of each month. Interview reports must include:

- a) Project name and number
- b) Company name
- c) Work classification(s) of worker(s)
- d) Number of interviews performed in each classification
- e) Irregularities if noted (please indicate "None" if none were noted)

10. Bulletin Boards: The Sponsor (or hired Consultant) is responsible for ensuring the Contractor is in compliance with NHDOT Standard Specification 107.01, Bulletin Board Requirements. Sponsors/Consultants shall also ensure the Prime Contractor has properly erected the bulletin board on the site of work when the job begins. Sponsors/Consultants shall complete the OFC Bulletin Board Checklist during the first week of work and provide a copy of the completed checklist to the OFC Federal Compliance Officer on his/her first visit to the project. Responsibility also extends to ensuring the Prime Contractor has posted any additional work classifications and rates immediately following USDOL approval.

SUBCONTRACTING:

1. In accordance with FHWA Form 1273 (Required Contract Provisions), NHDOT Standard Specifications 108.01 and RSA 228:4-b, **NO PORTION** of the contract shall be sublet, assigned or otherwise disposed of without the written consent of the NH DOT. Violations are a serious matter.

2. Prime Contractors shall submit consent to sublet packages directly to the Office of Federal Compliance **at least 5 working days prior** to said subcontractor (or lower-tier

subcontractor) performing work on site. Primes shall provide a courtesy copy to the Sponsor/Consultant on all submissions. For questions, call (603) 271-6752.

3. The Office of Federal Compliance will email a copy of the subcontractor approval paperwork to the Sponsor/Consultant, the Prime Contractor, and the applicable subcontractor or lower-tier subcontractor. **Subcontractors cannot be allowed to perform work on site until they have been approved.** Please note that the NHDOT will not pay for work performed by unapproved subcontractors (see NHDOT Standard Specifications Section 108.01).

4. The Sponsor/Consultant shall monitor the day-to-day activities of each contractor working on site to ensure contractors are completing his/her portion of work with their own forces and that no unapproved subcontractors or lower-tier subcontractors are on site.

PAYROLLS / PAYROLL LOG SHEETS / SIGN IN SHEETS:

Note: Sponsors remain ultimately responsible for ensuring payroll, payroll log sheets, and sign-in requirements are fulfilled when a hired Consultant is performing this function.

1. The Sponsor/consultant shall complete the OFC Form 3, Payroll Log Sheet, on a daily basis, accurately recording which companies work on site and when. This form is available at the Office of Federal Compliance web site.

2. Sign-in Sheets: Use of the OFC Form 20, Project Daily Sign-in Record, is mandatory (no substitutes can be used). Workers must physically sign in themselves – a supervisor, foreperson, or co-worker cannot sign in for another person. Sponsors/Consultants should ensure workers are providing all information being requested on the sign-in sheet. Sign-in sheets should be consecutively numbered, kept in chronological order (newest on top), and maintained in a three ring binder. The OFC Form 20 is available at the OFC web site. Sign-in Sheet responsibilities:

- a. Prime Contractors are responsible for ensuring their workers and workers of approved subcontractors and lower-tier subcontractors sign in PRIOR to performing work on site.
- b. Sponsors, or hired Consultants, shall monitor the Prime's compliance with daily sign-in requirements and will take possession of sign-in sheets (originals if copies are made) on a daily basis. Sign-in sheets shall be maintained with Certified Payroll Reports – these are inspection items.

3. **When Payrolls Are Due:** All contractors must submit their certified payroll reports no later than 14 calendar days from the end of the week in which work was performed (the NHDOT considers Saturdays as the week ending date).

4. Sponsors/Consultants shall ensure the Prime Contractor submits all payrolls (including those for subcontractors and lower-tier subcontractors) on time. Sponsors/Consultants shall perform follow-ups, in writing, with the Prime Contractor anytime Certified Payroll Reports are late. The OFC should be cc'd in all cases.

UNDERSTANDING THE REQUIREMENT: Prime Contractors are responsible for ensuring all Certified Payroll Reports, including those from their subcontractors and lower-tier subcontractors, are submitted to the collection authority no later than the due date noted in Paragraph 3 above. Primes who fail to do so are “**in noncompliance.**” In these cases, Sponsors, or hired Consultants, shall act immediately to withhold estimate payments until such time the Prime Contractor is deemed “in full compliance.” In addition, Sponsors, or hired Consultants, shall **immediately** notify the Office of Federal Compliance, **in writing**, any time a contractor is noncompliant with payroll submission requirements.

5. Sponsors/Consultants shall “date stamp” Certified Payroll Reports upon receipt (by hand is acceptable). Dates received should then be transcribed to the Payroll Log Sheet as required.

6. The OFC Form 3, Payroll Log Sheet, Certified Payroll Reports, and daily sign-in sheets shall be maintained together in a location mutually agreed on by the Sponsor and the Federal Compliance Officer. Sponsors/Consultants shall ensure these documents are “inspection ready” at all times.

7. The Sponsor/Consultant shall review payroll submissions to ensure:

- a. Owners who perform work on site have been reported on payrolls
- b. Correct classifications have been used
- c. All equipment is being reported
- d. Correct rates have been paid
- e. Straight time and overtime have been properly broken out
- f. “Other” deductions have been fully described
- g. Project name and number has been included on both Side A and Side B
- h. Certification pages has been signed with an actual signature (copy ok)
- i. Fringe benefit breakouts have been provided with each payroll submission, as required, anytime a contractor relies on fringes to meet the “total rate.”

8. The Sponsor/consultant shall monitor daily work activities on the project and will note any inconsistencies between what is being reported on payrolls and what is actually taking place on the work site (use of equipment and possible misclassifications). Inconsistencies should immediately be brought to the attention of the Prime Contractor, in writing, and the respective NHDOT Federal Compliance Officer is cc'd.

Note: Sponsor/Consultant shall immediately notify the Prime Contractor, in writing, whenever discrepancies are noted (the OFC should be cc'd). **Sponsors should not wait until the next OFC compliance audit to address discrepancies.**

OFC COMPLIANCE FIELD AUDITS:

1. The NHDOT Federal Compliance Officer shall notify Sponsors/Consultants, in advance, when a Compliance Audit is scheduled. Sponsors, or hired Consultants, shall ensure the following documents are ready for inspection:

- a. OFC Form 3, Payroll Log Sheet
- b. Certified Payroll Reports (and fringe benefit breakouts if applicable)
- c. Employee sign-in sheets
- d. CUF Reviews (if a DBE has worked)
- e. Copies of Interviews, OFC Form 11 (Note: OFC and FHWA expectation is “some” interviews will be performed monthly)
- f. A copy of the completed Bulletin Board Checklist (on the first OFC audit)

2. The Sponsor/consultant) may be asked to accompany the Federal Compliance Officer on an on-site visit of the project.

3. The OFC completes an OFC Form 7, Field Audit Report, anytime an audit is accomplished. A copy will be emailed to the Sponsor or hired Consultant, if applicable, and the Prime Contractor as soon as possible after the audit is completed. If discrepancies are present, Primes are given 7 calendar days to correct.

4. The Sponsor/consultant shall work closely with the Office of Federal Compliance to ensure audits are closed out by the due date. Prime Contractors who do not responded appropriately by the due date are considered noncompliant. **No payments shall be made to the Prime Contractor until such time the compliance audit is closed and the Prime Contractor has been deemed “in full compliance.”**

FINAL ACTIONS:

1. The Sponsor/consultant shall advise the Office of Federal Compliance, in writing, when the Final Inspection is to take place. This milestone is added to the project data base record.

2. The Sponsor/consultant shall fax or email an OFC Form 13 to the Office of Federal Compliance indicating the job is “complete” immediately after project work is done. Important: OFC Form 13s received within 10 calendar days of the project completion date are considered “timely.”

3. NO LATER THAN 14 CALENDAR DAYS FROM WHEN WORK WAS LAST PERFORMED, the Sponsor or hired Consultant shall:

- a. Ensure all required Certified Payroll Reports have been received.
- b. Ensure the OFC Form 3, Payroll Log Sheet, is complete/finalized.
- c. Contact the respective NHDOT Federal Compliance Officer advising:
 - 1) There are “unaudited” payrolls and a “final review” is needed. These records will be delivered to the Office of Federal Compliance at 7 Hazen Drive, Concord NH.
 - 2) All certified payrolls required on this project have been received and have been reviewed by the OFC. We recommend an “ok to pay” release letter be accomplished.
- d. **IMPORTANT:** In the event all payrolls due are not accounted for/received by the 14th calendar day, the Town or hired Consultant shall immediately send written notification to the applicable Compliance Officer and provide details. Weekly updates shall be provided to the Compliance Officer until such time all payroll records have been received and deemed compliant.

4. ORGANIZING DOCUMENTS FOR SUBMISSION TO THE OFC FOR FINAL REVIEW:

- a. All payrolls, OFC Form 3s, Payroll Log Sheets, and sign-in sheets need to be provided to the OFC. This documentation must be in “hard copy.”
- b. Sign-in sheets will be filed in a 3-ring binder and be in chronological order, most recent on top.
- c. Payrolls will be broken out by contractor in the same order as they appear on the OFC Form 3, Payroll Log Sheet. Please use tabs to separate contractors.
- d. Payrolls should be filed chronologically, most recent on top.
- e. Fringe benefit documents must be attached to the payrolls they pertain to.

Transferring Payroll Records to Town When Job is Complete:

Following the completion of the final audit, the OFC will notify the Sponsor that the records are ready for pick up. If a Consultant has been overseeing the project, the Consultant shall be responsible for picking up the records at the NHDOT and for ensuring project records are transferred to the Town. In all cases, the Consultant shall transfer the records using a transmittal document. A copy of the transmittal shall then be mailed to the NHDOT for inclusion in the project records.

RELEASING FINAL PAYMENT TO PRIME:

1. Sponsors **shall not** release final payment to the Prime Contractor until:
 - a. All pending Office of Federal Compliance Field Audits have been deemed “closed.”
 - b. The Office of Federal Compliance has completed a “final review” of payrolls, payroll log sheets, and employee sign-in sheets and all documentation has been deemed correct and complete.
 - c. Written approval from the Office of Federal Compliance has been received.
2. Once the Office of Federal Compliance gives the Sponsor approval to release the final payment to the Prime, the Sponsor shall provide written notification (email) to the Office of Federal Compliance as to:
 - a. When the final payment was sent to the Prime
 - b. The total dollar amount of the final payment
 - c. Whether or not there were any subcontractors or lower-tier subcontractors who performed work that the Prime would need to pay from his/her final payment.

PROMPT PAY: VERIFYING “PAYMENT IN FULL” TO SUBCONTRACTORS/LOWER-TIER SUBCONTRACTORS AND MATERIAL SUPPLIERS:

1. After making the final payment to the Prime Contractor, Sponsors/Consultants shall verify that subcontractors/lower-tier subcontractors and material suppliers have all been paid, in full, according to NHDOT Prompt Pay requirements (21 days). Verification will be made via receipt and review of actual payments to subcontractors/lower-tier subcontractors and material suppliers. Use of lien waivers as proof of payment **is not allowed**.
2. The number of Prompt Payment verifications performed shall depend on the length of the project. Projects lasting 3 months or longer shall have monthly verifications. Projects with durations of less than 3 months can have a single prompt payment verification following the final payment to the Prime.
Important: Sponsors/Consultants shall inform the Prime Contractor at the Pre-Construction meeting which method of prompt pay verification will be used.
Note: Sponsors/Consultants can opt to do monthly verifications in all cases.
3. Once the Sponsor/Consultant has verified all subcontractors/lower-tier subcontractors and material suppliers have been paid in full, a “Certification of Payment in Full” email must be sent to the OFC.

Final \$ Reimbursement to Town:

Upon receipt of the Certification of Payments in Full email from the Sponsor/Consultant, the OFC will send the "Ok to Pay" (authorization to release final payment) letter to the NHDOT Bureau of Community Planning and Assistance. Sponsors/Consultants will be courtesy copied.

OTHER RESPONSIBILITIES OF THE SPONSOR:

1. Retain project records (including copies of all payrolls, payroll log sheets, and sign in sheets) for a period of at least 3 years following the completion of the project.
2. Complete an end of job Contractor Performance Report (obtain form from the Office of Federal Compliance) anytime there is substandard performance by any contractor performing work on the project or if requested by the Office of Federal Compliance.

SPONSOR / CONSULTANT EVALUATIONS:

The OFC will complete an OFC Form 19, Consultant Performance Evaluation, at the completion of each project. A copy of the completed evaluation shall be provided to the Consultant Company (Branch Manager), the Sponsor, the Bureau of Community Planning and Assistance, and the NHDOT Consultant Committee (Chairman).